IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1051 OF 2007
IN
CRIMINAL APPLICATION NO. 1050 OF 2007
IN
CRIMINAL APPLICATION NO. 7897 OF 2005
IN
CRIMINAL APPEAL NO. 1130 OF 2005

Behrumal Devilal Kothari ..Applicant

Vs.

State of Maharashtra and ors. ..Respondents

Mr. S.A. Oak i/by Mahesh Menon & Co. for applicant.
Mr. A.S. Shitole, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : September 13, 2007.

P.C.:

1. Heard. Sessions Case No. 1484 of 1995 came to be decided by the learned 6th Ad-hoc Additional Sessions, Sewri, Mumbai, as per his Judgment and Order dated 23/12/2004. Accused no.5 and accused no.7 came to be acquitted for some offences i.e. under Sections 412, 395 and 414 of IPC. By the said order, the learned Additional Sessions Judge also disposed off the property under Section 452 of Cr.P.C. and it was

held that Shri Zaverilal Popatlal Dedhia was entitled to possession of articles and the unreturned articles shall be returned to him after the appeal period was over. Article nos.40, 42, 44, 45, 48, 49, 50 and 55 were directed to be returned to him after the appeal period is over and in respect of some other articles the order was already passed in Sessions Case No.828 of 1994. Consequently Misc. Application Nos.162, 163, 176 and 186 of 2004 came to be dismissed.

2. The present applicant has filed appeal being aggrieved by the order passed in Misc. Application No. 163 of 2004 and he claims that he is the legitimate owner of gold ornaments seized from him by the Matunga Police. This claim has been turned down by the learned Ad-hoc Additional Sessions Judge and hence the appeal i.e. Criminal Appeal No.1130 of 2005 for return of property.

3. However, the said appeal was filed belatedly and, therefore, Criminal Application No. 7879 of 2005 came to be filed for condonation of delay caused in filing the appeal. Rule was granted by this court in

the said Application on 12/12/2005. The appeal was beyond time by 250 days, as per the office note. The application came to be dismissed in default in view of the conditional order dated 5/6/2006.

4. For the restoration of Criminal Application No. 7897 of 2005, the applicant filed Criminal Application No. 1050 of 2007 and that also belatedly and hence the present application i.e. Criminal Application No. 1051 of 2007 has been filed for condonation of delay caused in filing restoration application i.e. Criminal Application No.1050 of 2007. As per the office note restoration application is beyond time by 651 days. The explanation set out in support of the prayer for condonation of delay is far from being satisfactory and it is evident from the record and as described hereinabove that at every stage the applicant has approached this court belatedly. When Misc. Application No.163 of 2004 was dismissed by the learned Ad-hoc Additional Sessions Judge on 23/12/2004, the order clearly stated that the articles covered by the said order shall be handed over to Shri Zaverilal Popatlal Dedhia after the

appeal period was over and by the time the applicant filed Criminal Appeal No.1130 of 2005, the order dated 23/12/2004 passed by the learned Ad-hoc Addl. Sessions Judge had already been taken effect. Even otherwise, the learned Ad-hoc Addl. Sessions Judge has set out the reasons in rejecting Misc. Application No.163 of 2004 and had turned down the contentions of the applicant that the articles sought to be returned i.e. gold ornaments were owned by him. The applicant, by his laxity, has allowed the appellate remedy to lapse and the reasons set out to condone the delay are not at all satisfactory.

5. I, therefore, find no reasons to condone the delay caused in filing the restoration application. Hence, Criminal Application NO.1051 of 2007 stands rejected.

. In view of the above Criminal Application No.1050 of 2007 does not survive and shall stand disposed as such.

(B.H. Marlapalle,J.)